

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

ROY DALE MATHIS,)	
)	
Plaintiff,)	
)	No: 3:08-0277
v.)	Judge Campbell/Bryant
)	Jury Demand
TRUMAN JONES, et al.,)	
)	
Defendants.)	

TO: The Honorable Todd J. Campbell

REPORT AND RECOMMENDATION

Defendant Eloise Gaither has filed her motion for partial dismissal (Docket Entry No. 20), seeking dismissal of claims against her in her individual capacity. Defendant James K. Clayton, Jr. filed his motion to dismiss. (Docket Entry No. 24). Plaintiff has filed no response to these motions, and the period within which responses are to be filed has expired.

These motions have been referred to the undersigned Magistrate Judge for report and recommendation. (Docket Entry No. 3).

On July 1, 2008, the undersigned Magistrate Judge issued an order directing plaintiff to respond to these motions on or before Monday, July 21, 2008. (Docket Entry No. 30). This order admonished the plaintiff that his failure to respond may cause the undersigned Magistrate Judge to recommend that these motions be granted. Despite this order, plaintiff has responded neither to the order nor to the motions referenced above. Accordingly, the undersigned Magistrate Judge finds that these two motions should be granted.

RECOMMENDATION

For the reasons stated above, the undersigned Magistrate Judge **RECOMMENDS** that defendant Eloise Gaither's motion for partial dismissal (Docket Entry No. 20) be **GRANTED**, and that the complaint against her in her individual capacity be **DISMISSED**. In addition, the undersigned Magistrate Judge further **RECOMMENDS** that defendant Clayton's motion to dismiss should be **GRANTED**, and that the complaint against him be **DISMISSED** with prejudice.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has ten (10) days from service of this Report and Recommendation in which to file any written objections to this Recommendation, with the District Court. Any party opposing said objections shall have ten (10) days from receipt of any objections filed in this Report in which to file any responses to said objections. Failure to file specific objections within ten (10) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. Thomas v. Arn, 474 U.S. 140 (1985), reh'g denied, 474 U.S. 1111 (1986).

ENTERED this 29th day of July 2008.

s/ John S. Bryant
JOHN S. BRYANT
United States Magistrate Judge